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Mr P Hayward  
3Y46

**PATENTS ACT 1977**

IN THE MATTER OF patent No.  
2083762 in the name of Timbale  
Corporation N.V.

and

IN THE MATTER OF applications under  
Section 37 and Section 72 by Craig  
Medical Products Limited

**DECISION**

Application No 8124707 was filed on 12 August 1981 in the name of Enak Limited and subsequently granted as patent No 2083762 on 20 February 1985. Proprietorship of the patent was later transferred to Timbale Corporation N.V. by virtue of an assignment dated 27 June 1988.

In 1986 Craig Medical Products Limited (the "applicants") launched separate proceedings for revocation of the patent under Section 72 and for determination of right to the patent after grant under Section 37. The proceedings under Section 37 have been stayed pending the outcome of the revocation action.

The Section 72 action proceeded fairly normally with both sides filing their pleadings and evidence, until the point was reached at which a hearing date should have been appointed. During this phase, the proprietors submitted proposals, which they subsequently confirmed to be unconditional, for amendment of the specification. The amendments were advertised and no notice of opposition to them was filed.

A date of 13 January 1992 was initially set for the substantive hearing under Section 72. The hearing was subsequently postponed with the agreement of both parties, on the grounds that negotiations with a view to a settlement were in progress. There then followed a series of further postponements at the request of the parties. However, in an Official letter dated 23 January 1996 granting one final limited extension, the Office made clear its view that in the public interest the matter should now be resolved without undue further delay and indicated its intention to appoint a hearing if the parties could not agree.

In letters dated 15 April 1996, the proprietors asked the Comptroller through their agents to regard the applications under Sections 72 and 37 as abandoned. In a letter dated 13 May 1996, the agents for the applicants stated that they had been instructed to take no further action in the matter but indicated that the applicants were not willing to withdraw the actions on the grounds that this might be taken as an admission that the patent in suit is valid. They suggested instead an extension of time until the expiry date of the patent (August 2001).

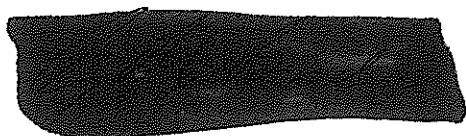
The Office replied on 21 May 1996 that in the public interest it was not minded to let the actions lie unresolved for the rest of the life of the patent, and indicated that unless any submission to the contrary was received within one month, it was proposed to deem the applications under Sections 37 and 72 to be withdrawn. In this event, a decision to that effect would be issued following consideration as to the necessity for the Comptroller himself to pursue any of the issues raised regarding revocation in the public interest.

No response was received within the specified period and I therefore deem the applications under Section 37 and 72 to be withdrawn. It now falls to me to determine the question as to whether the Comptroller himself should pursue any of the issues raised under Section 72, having regard to the proposed amendments.

The amendments proposed unconditionally by the proprietors are such as may lawfully be made in these proceedings and are shown in a copy of the printed specification annexed to this decision.

I have considered the objections raised by the applicants for revocation, and the amendments proposed in response, and I decide to allow the specification to be amended in the manner shown in the said copy of the printed specification and make no order for revocation of the patent.

Dated this 10<sup>th</sup> day of December 1996



**G M BRIDGES**

Superintending Examiner, acting for the Comptroller



**THE PATENT OFFICE**